

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
EASTERN DIVISION**

DON BUTLER, *et al.*,

Plaintiffs,

v.

PAMELA BONDI, in her official
capacity as Attorney General of the
United States, *et al.*,¹

Defendants.

Case No. 1:24-cv-00975-CLM

DEFENDANTS' OPPOSED MOTION FOR STAY

Pursuant to the Court's Uniform Initial Order, ECF No. 16, Defendants hereby file this opposed Motion for Stay. Defendants respectfully request that the Court stay this case, including staying all deadlines on pending motions. Defendants further request that the Court rule on this Motion before February 21, 2025, the date by which Defendants' reply in support of their cross-motion for summary judgment is due. *See* ECF No. 44. Plaintiffs oppose this Motion, and respectfully request a

¹ Pursuant to Federal Rule of Civil Procedure 25(d), Pamela Bondi, in her official capacity as Attorney General of the United States, is automatically substituted as a Defendant for former Attorney General Merrick Garland. Similarly, Marvin G. Richardson, in his official capacity as Acting Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives, is automatically substituted as a Defendant for former ATF Director Steven Dettelbach.

telephonic conference with the Court. Defendants do not oppose a telephonic conference should the Court find one helpful to the resolution of this Motion.

In this case, Plaintiffs challenge the lawfulness of a 2024 rule promulgated by the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”), Final Rule, Definition of “Engaged in the Business” as a Dealer in Firearms, 89 Fed. Reg. 28,968 (Apr. 19, 2024) (“Rule”). The parties have filed cross-motions for summary judgment, *see* ECF Nos. 21–24, 31, and Defendants’ reply in support of its cross-motion is due by February 21, 2025, *see* ECF No. 44.

Following a change in administration, President Trump issued an Executive Order on February 7, 2025, titled *Protecting Second Amendment Rights*.² Exec. Order No. 14206, 90 Fed. Reg. 9503 (Feb. 12, 2025). Among other things, the Order directs the Attorney General to “examine” various “actions of executive departments and agencies” to “assess any ongoing infringements of the Second Amendment rights of our citizens, and present a proposed plan of action to the President, through the Domestic Policy Advisor, to protect the Second Amendment rights of all Americans.” *Id.* § 2(a). And the Order specifically directs the Attorney General, as part of that process, to review all “[r]ules promulgated by the Department of Justice,

² *See also* President Donald J. Trump, *Presidential Actions: Protecting Second Amendment Rights* (Feb. 7, 2025), <https://www.whitehouse.gov/presidential-actions/2025/02/protecting-secondamendment-rights>.

including by [ATF], from January 2021 through January 2025, pertaining to firearms and/or Federal firearms licensees.” *Id.* § 2(b)(ii).

In light of that development, Defendants respectfully request that the Court stay this case, including staying all deadlines on pending motions, and that the Court rule on this Motion before Defendants’ February 21, 2025 reply deadline. A district court “has broad discretion to stay proceedings as an incident to its power to control its own docket.” *Clinton v. Jones*, 520 U.S. 681, 706 (1997); *see Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) (“[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.”). A stay here will conserve party and judicial resources and promote the efficient and orderly disposition of this case, including by ensuring that litigation is focused on enduring agency action and informed by the views of current agency leadership. The government respectfully proposes to update the Court with status reports every 60 days.

For the foregoing reasons, the Court should grant this Motion, stay this case, and direct Defendants to file a status report within 60 days.

Dated: February 14, 2025

Respectfully submitted,

BRETT A. SHUMATE
Acting Assistant Attorney General

Civil Division

ANDREW I. WARDEN
Assistant Director
Federal Programs Branch

/s/ Zachary W. Sherwood

ZACHARY W. SHERWOOD

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CERTIFICATE OF SERVICE

On February 14, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Alabama, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Zachary W. Sherwood

Zachary W. Sherwood

Trial Attorney

U.S. Department of Justice